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FEDERAL COMMUNICATIONS COMMISSION
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February 14, 1997

HAND DELIVERY

William F. Caton
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554


Re: In the Matter of Access Charge Reform (CC Docket No. 96-262)

Dear Mr. Caton:

Enclosed for filing are an original and 12 copies of the Reply Comments of Telecommunications, Inc. in the above-referenced matter. We have also provided courtesy copies of this filing to the Competitive Pricing Division of the Common Carrier Bureau and International Transcription Service, Inc.

Should the Commission have any questions regarding this filing, please do not hesitate to call the undersigned.

Sincerely,



Randall B. Lowe

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Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
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Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Transport Rate Structure)	CC Docket No. 91-213
and Pricing)	
)	
Usage of the Public Switched)	CC Docket No. 96-263
Network by Information Service)	
and Internet Access Providers)	
)	

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Reply Comments
of
Tele-Communications, Inc.

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1200 19th Street N.W.
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Its Attorney

Dated: February 14, 1997

TABLE OF CONTENTS

	<u>Page</u>
Summary	iii
I. Introduction	1
II. Reply Comments	2
A. Common Line	2
B. Local Switching	7
C. Transport	10
1. Entrance Facilities	11
2. Direct-Trunked Transport	11
3. Tandem-Switched Transport	12
(a) Unbundling	12
(b) Rate structuring	13
i) dedicated facilities	13
ii) shared facilities	13
(c) Distance measurement	14
D. The TIC	15
E. SS7 Signaling	18
F. New Technologies	20
G. Regulatory Approach	20
1. The proposed market-based approach	22
2. Deregulation in the presence of substantial competition	24
3. Competitive factors	26
H. Universal Service	28

	<u>Page</u>
I. Terminating Access	31
1. Terminating access offered by CLECs	32
2. Terminating access offered by ILECs	34
J. Regulatory Treatment of Originating Access for "Open End" Services	34
K. Treatment of Internet and ISPs	35
L. Part 69 Revisions	36
III. Conclusion	37

Attachment A

An Economic Analysis of Terminating Access, by Steven R. Brenner, Bridger M. Mitchell, and Padmanabhan Srinagesh, Charles River Associates, Inc. (Feb. 14, 1997)

SUMMARY

TCI's Comments were based on two premises. First, access rates should not only reflect the elements of access but that they should be cost-based and assessed on the causer of those costs. Second, the marketplace for competitive access services is not yet truly competitive. As a result, TCI commented that:

(1) the access rate elements should be based on incremental forward-looking costs of providing interstate access services;

(2) any forward-looking costs now recovered by the TIC should be assigned to their proper rate element;

(3) if the Commission allowed the recovery of any remaining legacy costs, they could be included in the SLC or, as an interim measure, a PIC-based charge;

(4) NTS and TS costs should be recovered by flat and usage-sensitive rate elements, respectively; such that line card and line-side port costs should be recovered by the PIC-based charge, costs of dedicated trunk-side ports should be recovered by a flat, per-port charge, and usage-sensitive local switching costs should be recovered on a per-minute-of-use basis with a justified peak/off-peak rate structure except for call set-up costs, which should be recovered as either a separate, per message rate element or as a part of a signaling rate element;

(5) the costs of common transport between the EO and the tandem switch and the costs of tandem switching should be recovered by a flat rate that is based on the proportion of trunks between the tandem and the SWC that are dedicated to the IXC;

(6) the IXC should have the discretion of route-specific or airline mileage sensitive rates between the EO and the SWC for tandem-switched transport;

(7) the Commission should address new technologies on an *ad hoc* basis;

(8) the Commission should continue to regulate ILECs until certain competitive standards are satisfied on a service-by-service basis and within a defined geographical area and rely on market forces for the regulation of CLECs;

(9) the Commission should adopt the Ameritech SS7 rate structure but treat ISUP and TCAP messages identically unless different charges are justified;

(10) the Commission should adjust access rates to account for the revenue impact caused by changes to universal service including reductions in ILEC funding and increased payments from new support mechanism;

(11) the Commission should regulate ILEC terminating access but allow the marketplace to regulate CLEC terminating access;

(12) the Commission should not treat "open end" traffic differently from originating traffic;

(13) new access technologies should be reviewed by the Commission on an *ad hoc* basis; and,

(14) until the institution of substantial competition, the ILECs should be required to comply with Part 69 as revised to reflect the outcome of this Docket.

As demonstrated in these Reply Comments, the Comments of other parties do not undermine TCI's position. Indeed, many parties support TCI. Because TCI's position is compelling, this support is not surprising. TCI's position offers the Commission a simple and straightforward means by which to accomplish its goals in access reform.

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To: The Commission

Reply Comments
of
Tele-Communications, Inc.

Tele-Communications, Inc. ("TCI"), by its attorney, hereby submits its Reply Comments on the above-captioned Notice of Proposed Rulemaking ("NPRM").¹

I. INTRODUCTION

The theme of TCI's comments with regard to the structure and level of access charges has been to reform access charges to promote economic efficiency. The *structure* of rates should be derived from cost causation, with rate elements that are directly sensitive to the source of access

¹During the preparation of this submission, TCI consulted with Steven R. Brenner and Bridger M. Mitchell of Charles River Associates on the economic analysis of many of the issues.

costs, whereas the *level* of all rate elements should be determined by the forward-looking costs of providing the facility or service. Such a forward-looking, cost-based rate structure will fully recover the costs of providing exchange access service in a more efficient manner. To the extent that the Commission determines, as a matter of policy, that a greater amount of revenue should be recovered from interstate access charges in order to transition from rates based on historical costs to rates that are based on forward-looking costs, the additional revenue should be recovered with the least amount of economic distortion by the existing SLC or a new PIC-based charge.

The Commission's approach to access reform should treat ILECs and CLECs according to their respective levels of market power and competitive pressures. In light of the dramatic differences in market power between ILECs and CLECs, TCI also commented that the Commission should retain current access charge and tariff requirements for market-dominant ILECs, but permit market forces to regulate CLECs. Because CLECs lack market power and are constrained by competitive pressures, price and tariff regulation of their access services would not serve the public interest. Market regulation for ILECs, however, would be insufficient to drive access prices to cost and constrain the potential for anti-competitive ILEC pricing behavior. Consequently, the process of de-regulating ILECs, such as permitting pricing flexibility, should not begin until they demonstrate the existence of substantial competition on a service-by-service basis in a defined geographic area.

II. REPLY COMMENTS

A. Common Line

There is widespread agreement in this proceeding that local loop costs are non-traffic sensitive ("NTS") and that the recovery of common line costs allocated to the interstate jurisdiction and recovered through the per-minute carrier common line ("CCL") charge

inefficiently raises consumer prices and distorts market signals.² Thus, TCI proposed in its Comments that all local loop costs now recovered by the usage-sensitive CCL rate element be recovered directly from end users through a fixed, per-line charge, such as the SLC.³ TCI recognizes that the Commission may not immediately increase the SLC on all lines to the extent necessary to recover the total common line costs that are now allocated to the CCL charge. Until the SLC is sufficiently increased, therefore, TCI proposed two transition steps. First, TCI proposed that the SLC price cap for additional residential lines and multi-line business customers be increased immediately.⁴ Second, TCI supported the Joint Board's recommendation to establish a flat, per-customer charge based on the customer's choice of primary interexchange carrier ("PIC").⁵ As an interim measure, the PIC-based charge would initially be used to recover CCL costs to the extent they are not recovered by the SLC.⁶ In the event that a customer fails to select a PIC, TCI proposed to allow incumbent local exchange carriers ("ILECs") and

²Comments of Tele-Communications at 9-10 ("TCI Comments"). See, e.g., Comments of AT&T Corporation at 51-53 ("AT&T Comments"); Comments of the Alabama Public Service Commission at 4 ("Alabama PSC Comments"); Comments of the Competitive Telecommunications Association at 29 ("CompTel Comments"); Comments of the National Association of Regulatory Utility Commissions at 10-11 ("NARUC Comments"); Comments of the General Services Administration and the United States Department of Defense at 3 ("GSA Comments"); Comments of MCI Telecommunications Corporation at 76-77 ("MCI Comments"); Comments of Sprint Corporation at 10 ("Sprint Comments").

³TCI Comments at 10.

⁴TCI Comments at 10. But see Comments of BellSouth Corporation. and BellSouth Telecommunications at 69-70 (claiming that ILECs cannot distinguish between primary and secondary residential lines) ("BellSouth Comments").

⁵TCI Comments at 10.

⁶*Id.*

competitive local exchange carriers ("CLECs") (collectively "LECs") to collect the flat charge directly from the customer, again in accord with the Joint Board's recommendation.⁷

The combination of a flat-rate, per-subscriber PIC charge levied on IXC's and CLECs and the equivalent flat-rate charge levied by LECs on subscribers without PICs provides a rate structure in which the costs of each local loop that are to be recovered in access charges are assessed by non-usage sensitive rates, per local loop.

Several commenters support TCI's proposal to eliminate the CCL rate element and recover these costs by a per-line, flat-rate charge paid directly by the end user.⁸ Of these commenters, some support restructuring the current CCL charge so that loop costs are no longer recovered on a traffic sensitive ("TS") basis, but would continue to have the IXC's pay for loop costs rather than shifting them to end users.⁹ Although recovery of the CCL costs through a flat-rate charge paid by IXC's would recover the interstate portion of loop costs more efficiently than the current per-minute CCL charge, a per-line charge paid directly by end users would most directly assign costs to the cost causer to ensure economic efficiency.¹⁰ As a result, TCI and

⁷*Id.* at 10-11.

⁸*See, e.g.,* Comments of Airtouch Communications at 10; AT&T Comments at 52; BellSouth Comments at 68; CompTel Comments at 29; Comments of Frontier Corporation at 4-6 ("Frontier Comments"); Comments of Pacific Telesis Group at 60 ("PacTel Comments"); Comments of Southwestern Bell Telephone Company at 37 ("SWBT Comments"); Sprint Comments at 11; Comments of U S West, Inc. at 53-54 ("U S West Comments"); Comments of WorldCom, Inc. at 31 ("WorldCom Comments"); Comments of Time Warner Communications Holdings, Inc. at 4-6 ("Time Warner Comments").

⁹Comments of the State of California and the Public Utilities Commission of the State of California at 3 ("CA Comments"). *See* Comments of the Competition Policy Institute at 15 ("CPI Comments") Comments of GTE Service Corporation at 26-27 ("GTE Comments"); Comments of the Group of State Consumer Advocates at 29 ("State Consumer Comments"); Comments of the United States Telephone Association at 55 ("USTA Comments").

¹⁰*See* AT&T Comments at 52; TCI Comments at 11; SWBT Comments at 35.

many other commenting parties¹¹ support the position that interstate loop costs ultimately should be recovered directly from end-users via the SLC.¹²

Some commenters are concerned that elimination or modification of the current SLC price caps would have a detrimental effect on telephone subscribership.¹³ If, as a result of this concern, the Commission elects to adopt a transitional mechanism to shift interstate local loop costs to end users, TCI, as stated above, proposed that the Commission replace the current CCL with the flat-rate charge per customer based on the customer's choice of PIC. A PIC-based charge would be the most administratively simple mechanism of eliminating non-cost based rates and gradually shifting costs to end-users to reflect cost causation.¹⁴ Some commenters agreed, proposing a PIC-based charge in lieu of the existing CCL charge.¹⁵

¹¹See, e.g., AT&T Comments at 54 (requesting that the Commission eliminate the SLC price cap for all lines); Comments of America's Carriers Telecommunication Association at 7 (supporting a proposal to remove the SLC price caps for multi-line business and non-primary residential lines) ("ACTA Comments"); Comments of the Association for Local Telecommunications Service at 24 (stating that the Commission should remove the SLC price cap for business customer and non-primary residential lines) ("ALTS Comments"); CA Comments at 5 (proposing that the Commission raise SLC price caps for business customer and non-primary residential lines)

¹²Other parties object to an increase in the SLC price caps based upon the lack of evidence (cost data) supporting the need to do so. See, e.g., Comments of the American Petroleum Institute at 29 (stating that the SLC caps should not be increased since there is no evidence to suggest that the current SLC fails to recover the forward-looking interstate loop costs) (API Comments"); CPI Comments at 18 (arguing that the Commission should not raise SLC price caps until the LECs can demonstrate that their underlying costs require such a result). TCI agrees that the Commission should only permit an increase in the SLC if a LEC can demonstrate that its forward-looking costs of supplying local loops are not being recovered under the current SLC price cap.

¹³See, e.g., Alabama PSC Comments at 5 (asserting that "residential customers with low volume usage and fewer competitive choices could have significant monthly rate increases" if access charges were passed directly to the end user); Comments of the Alaska Telephone Association at 8 (arguing that SLC price caps should be maintained since costs to end users in remote areas will be unaffordable) ("Alaska Comments"); Comments of the Commonwealth of the Northern Mariana Islands at 5 (stating that charges for access in insular and rural areas are already burdensome for remote subscribers) ("N. Mariana Comments").

¹⁴TCI Comments at 10-11.

¹⁵See, e.g., BellSouth Comments at 68; Comments of LCI International Telecommunications. Corporation at 21-22 ("LCI Comments"); SWBT Comments at 7; U S West Comments at 54.

Other commenters did not endorse the adoption of a PIC-based charge.¹⁶ These commenters argue that a PIC-based charge would actually be problematic and more administratively burdensome in some instances.¹⁷ For example, the Competition Policy Institute claimed that a PIC-based charge is problematic in that end users may choose to dial around their presubscribed IXC, and, consequently, carriers receiving dial-around traffic should also be assessed an interstate portion of the local loop costs.¹⁸ As stated above, for end users who do not select a PIC, TCI urged the Commission to adopt the Joint Board's recommendation to allow ILECs and CLECs to collect an equivalent flat-rate charge directly from any such end user, thereby alleviating any dial-around concern.¹⁹

The alternative proposals advanced by some commenters make recovery of some portion of the local loop costs dependent on usage. For example, the Competition Policy Institute suggested assessing dial-around IXCs a charge based on aggregate minutes of use.²⁰ Other commenters proposed that local loop costs be recovered by bulk-billing charges to IXCs.²¹ These alternatives would perpetuate some of the inefficiencies of the current CCL charge by making the costs of IXCs vary directly with the volume of long-distance traffic that they carry, whereas the local loop costs that are to be recovered are costs that are fixed, irrespective of traffic volume.

¹⁶See, e.g., Comments of Alltel Telephone Services Corporation. at 12 ("Alltel Comments"); Alabama PSC Comments at 5; CPI Comments at 17.

¹⁷*Id.*

¹⁸CPI Comments at 15.

¹⁹TCI Comments at 10-11.

²⁰CPI Comments at 15.

²¹See, e.g., Alaska Comments at 10; Alltel Comments at 12; PacTel Comments at 64.

B. Local Switching

TCI's proposed revisions to the local switching rate element include: (a) a flat charge that is assessed either by an increase in the SLC or by instituting a PIC-based charge to recover the costs associated with line cards and line-side ports; (b) a charge per trunk-side port paid by IXCs to recover the forward-looking costs of trunk ports dedicated to the use of individual IXCs; (c) a separate charge to recover the forward-looking costs associated with call set-up (perhaps recovered through a signaling rate element); and (d) a usage-sensitive charge to recover the forward-looking costs of local switch capacity required to maintain conversations (which could be levied per peak-period minute if local switches share a common peak period). Such revisions would ensure that local switching charges reflect, in both structure and level, the principles of cost-causation.²²

A vast majority of the commenters agree that local switching costs must be recovered by both TS and NTS elements in order to accurately reflect the way local switching costs are incurred.²³ These commenters also propose a NTS charge for dedicated facilities such as line cards and line-side ports, an NTS charge for trunk-side dedicated ports, and a separate TS charge for trunk-side ports used to terminate common trunks.²⁴ Like TCI, these commenters recognize that access rates must accurately reflect the manner by which costs are incurred.²⁵

²²TCI Comments at 13.

²³See, e.g., ALTS Comments at 26; AT&T Comments at 55; Alabama PSC Comments at 8; CompTel Comments at 30; Comments of the Florida Public Service Commission at 2 ("Florida PSC Comments"); Comments of the Texas Office of Public Utility Council at 15-16 ("Texas Comments"); PacTel Comments at 69; USTA Comments at 57.

²⁴See AT&T Comments at 55-56; CA Comments at 5-6; PacTel Comments at 66; MCI Comments at 80.

²⁵*Id.*

Although many commenters also voiced support for a separate rate element to recover the costs of call set-up;²⁶ several requested that the Commission make this rate element optional rather than mandatory.²⁷ Some of these commenters assert that alternative call set-up rate structures are necessary in order for the ILECs to respond to marketplace demands.²⁸ Still others argue that the costs of establishing and maintaining a separate rate element may outweigh the benefits of a separate call set-up charge.²⁹

As TCI stated in its Comments, the Commission must be mindful of its commitment to establish rate elements that most accurately reflect the access costs involved.³⁰ As Ameritech stated in its Comments, "a per call rate element to recover the costs associated with call set-up would allow rates to more rationally reflect the way in which costs are actually incurred."³¹

²⁶See, e.g., Alabama PSC Comments at 8; Ameritech Comments at 15; BellSouth Comments at 71; CA Comments at 6; CPI Comments at 19; US West Comments at 58; PacTel Comments at 67-69. See AT&T Comments at 56 (stating that a separate rate element to recover the costs for call set-up is unnecessary because such costs are allocated to the signaling rate element); CompTel Comments at 31 (claiming that there are no grounds to establish a separate rate element to recover call set-up costs).

²⁷See, e.g., Alabama PSC Comments at 8; Ameritech Comments at 15; BellSouth Comments at 71; CPI Comments at 19-20; PacTel Comments at 69; U S West Comments at 58.

²⁸See, e.g., BellSouth Comments at 71; Bell Atlantic Comments at 39; USTA Comments at 57.

²⁹See Comments of the Ad Hoc Telecommunications Users Committee at 18-23 (claiming that the costs of establishing a call set-up charge would outweigh the potential benefit) ("Ad Hoc Users Comments"); Sprint Comments at 19 (stating that call set-up costs are "too small to warrant the establishment of a separate call set-up element"). See also CPI Comments at 19 (stating that "[i]t is not clear how much the costs of measurement will intrude on the decision to institute [this] element.").

³⁰TCI Comments at 2.

³¹Comments of Ameritech at 15 ("Ameritech Comments").

Indeed, at least one state jurisdiction has already revised its intrastate local switching rate elements to include a per call set-up charge.³²

TCI further suggested that the local switching costs of call set-up vary directly with local network signaling costs, and may be more appropriately recovered as part of a signaling rate element.³³ It would be administratively simpler to include local switching costs of call set-up in a signaling rate element than to create and maintain a separate local switching rate element for these costs. If the Commission chooses not to include all call set-up costs in the signaling rate element, the Commission should require that the balance of interstate access costs associated with call set-up be recovered through a separate switching rate element.

Some commenters have proposed that a call set-up charge apply to both attempted and completed calls,³⁴ while others propose charging only for completed calls.³⁵ Provided that the switching and transport rate elements for signaling are sensitive to the number of signaling messages, as proposed by TCI, the recovery of local switching costs for call set-up through a signaling rate element should reflect the switching costs incurred by both call attempts and completed calls.

³²See, e.g., CA Comments at 6 (noting that California established a separate call set-up charge for intrastate switched access two years ago); PacTel Comments at 68.

³³TCI Comments at 12-13. See also AT&T Comments at 56 (asserting that many call set-up costs are now allocated to signaling); Ad Hoc Users Comments at 24 (requesting that the Commission "harmonize" its SS7 rate element with a call set-up rate element).

³⁴See, e.g., Alabama PSC Comments at 8 (recognizing, however, that this may prove too burdensome); Ameritech Comments at 15-16; Comments of Compuserve, Inc. and Prodigy Services Corporation at 29.

³⁵See, e.g., ACTA Comments at 8; MCI Comments at 83. See also PacTel Comments at 67 (recommending that originating call set-up charges apply to call attempts that are handed off to the point-of-presence, but are charged only to those terminating attempts that complete the call).

TCI also supports a peak/off-peak distinction for the usage-sensitive components of local switch capacity, but only in those cases where local switches generally have a common peak period, and the peak/off-peak rate structure can be shown to reflect the structure of costs.³⁶ Some commenters argue that it would be difficult for IXC's to adjust their rates to reflect peak/off-peak access charge differentials.³⁷ In response, TCI would note that IXC's frequently offer rate plans that distinguish peak and off-peak periods, providing evidence that peak/off-peak periods could be included in an IXC's cost calculations.

C. Transport

There is broad approval among the commenters of the Commission's proposed division of the transport rate structure into its three basic parts: entrance facilities, direct-trunked transport, and tandem-switched transport.³⁸

With the exception perhaps of some ILECs, there also seems to be general agreement among the commenters that transport rates should reflect costs by, *inter alia*, rate elements that distinguish between NTS and TS costs, and that NTS costs should be charged on a flat rate basis, including distance sensitive rates for trunk facilities. Parties as diverse as NCTA, NECA, and the

³⁶TCI Comments at 13. Cf. ACTA Comments at 8 (explaining that the "data necessary to derive peak period time frames is partially subjective and will vary widely based on both foreseeable seasonal and cyclical trends, as well as incidental traffic spiking"); CompTel Comments at 31 (stating that the "definition of peak/off-peak periods varies markedly with time zone, rate zone, time of day and class of service . . .").

³⁷See AT&T Comments at 56-57 (describing the complex nature of maintaining a peak/off-peak rate structure); CompTel Comments at 31 (describing why it believes a peak/off-peak rate structure is impracticable, especially since the impact on service usage patterns would allegedly be *de minimus*); MCI Comments at 83 (arguing that peak/off-peak pricing would be difficult to audit and verify); Sprint Comments at 19 (asserting that it would be "inordinately complex for IXC's to reflect these variances"). See also ACTA Comments at 8 (stating that there are other practical problems related to limitations regarding the ILECs' ability to verify access charges).

³⁸See Comments of the National Cable Television Association at 10 ("NCTA Comments"); Comments of the National Exchange Carrier Association at 3 ("NECA Comments"); CA Comments at 5-6; BellSouth Comments at 71-72; MCI Comments at 84; Comments of Excel Telecommunications, Inc. at 13 ("Excel Comments").

State of California joined TCI and endorsed these principles.³⁹ Many parties also agreed with TCI that all forward-looking, transport-related costs included in the current TIC should be recovered in the specific facilities-based transport rate structure components, either reducing the TIC or, as TCI argued, eliminating it altogether.⁴⁰

1) Entrance Facilities

Nearly everyone agreed with the Commission that entrance facilities are not traffic sensitive and should be charged at flat rates. ACTA, Alabama, AT&T, BellSouth, California, Florida, and MCI, for instance, all joined TCI in endorsing this approach.⁴¹

2) Direct-Trunked Transport

There also appears to be a consensus (a) that the costs of direct-trunked transport vary directly with the number of trunks and the distance between the serving wire center ("SWC") and end office ("EO") and (b) that the rate element for direct-trunked transport should be a per-trunk, flat-rate charge that varies, as the Commission proposed, by airline mileage. ACTA, Alabama, BellSouth, California, and MCI were among the commenters joining TCI in endorsing the Commission's views on this issue.⁴² Additionally, where commenters addressed the question, they generally agreed that LECs should be permitted to differentiate direct-trunked transport rates according to whether the LEC or the customer performs channel facilities assignment. TCI

³⁹See NCTA Comments at 7-8; NECA Comments at 3-4; CA Comments at 5-7; MCI Comments at 75-76.

⁴⁰See, e.g., MCI Comments at 86-87; NCTA Comments at 25-26; CompTel Comments at 20-21.

⁴¹See ACTA Comments at 9-10; Alabama PSC Comments at 2, 9; AT&T Comments at 59; BellSouth Comments at 71-72; CA Comments at 5-6; Florida PSC Comments at 2-3; MCI Comments at 79-80.

⁴²See ACTA Comments at 10-12; Alabama PSC Comments at 9; BellSouth Comments at 71-72; CA Comments at 5-6; MCI Comments at 85. See also AT&T Comments at 59 (endorsing a flat-rate charge for direct-trunked transport).

supports this rate flexibility, *provided* that the LEC supports any difference in rates with forward-looking cost data.⁴³

TCI also supported setting the rate level for direct-trunked transport at the forward-looking costs of those facilities. This position is taken by CPI, AT&T, MCI and NCTA.⁴⁴ Other parties, among them the ILECs,⁴⁵ imply that direct-trunked transport rates should recover the embedded costs of those facilities. Setting rate levels above forward-looking costs would result in inefficiently high rates, distort competition, and encourage bypass of the ILEC's transport facilities, even in cases in which competitive transport is more costly to provide.

3) Tandem-Switched Transport

Comments on tandem-switched transport address three issues: unbundling of rate elements, the structuring of rates, and the proper sensitivity of rates to distance, including whether IXCs should retain options for how distance is measured.

(a) Unbundling

TCI supports unbundling of the tandem-switched transport services into separate rate elements so that carriers who choose to supply their own dedicated transport from the SWC to the tandem, for instance, can purchase only the tandem trunk port, tandem-switching, and common transport services to the EO.⁴⁶ Unbundled transport rates, based on forward-looking costs, promote economic efficiency by permitting carriers to select only needed rate elements from the lowest-cost supplier of dedicated transport.

⁴³Differentials that are not based on forward-looking costs could disguise discrimination by the ILEC in favor of its IXC subsidiary. MCI Comments at 84-85.

⁴⁴See, e.g., CPI Comments at 21-22; AT&T Comments at 59; MCI Comments at 84-85; NCTA Comments at 10.

⁴⁵See, e.g., Comments of Minnesota Independent Coalition at 14-15 ("Minnesota Independent Comments").

⁴⁶TCI Comments at 15-16. Accord, Excel Comments at iv.

(b) Rate structuring

(i) dedicated facilities

TCI commented that the costs of the dedicated facilities used for tandem-switched transport -- dedicated transport and tandem trunk ports -- should be recovered by per-trunk rate elements and that the transport rate element should be based on airline mileage.⁴⁷ The cost of dedicated transport facilities varies directly with the capacity and length of the facility irrespective of the volume of traffic transported, and similarly the cost of the trunk port does not vary with traffic volume. Thus, a per-trunk charge reflects the costs caused by transport of traffic in this portion of the ILEC network. Many other parties endorsed this approach.⁴⁸

(ii) shared facilities

The costs of facilities shared by the traffic of two or more carriers -- tandem switching and common transport between the tandem switch and the EO -- are currently recovered by charges per access minute. In its Comments, however, TCI reasoned that the costs of the shared tandem-switched transport facilities are likely to be more efficiently recovered by charges based on the capacity requirements imposed by interstate access traffic than by per-minute charges.

The costs of shared facilities are indeed increased by higher volumes of access traffic, but not necessarily in proportion to the total minutes of traffic. Rather, the costs of tandem switching and common transport depend on the capacity necessary to meet the requirements of the combined traffic of all carriers at the peak hour. Stated differently, the number and costs of

⁴⁷TCI Comments at 15. In other words, dedicated facility components of tandem-switched transport would be charged by separate rate elements that recover (a) forward-looking costs of tandem-trunk ports, and (b) the forward-looking, distance-sensitive costs of transport facilities, based on airline mileage, from the tandem switch to the SWC.

⁴⁸See, e.g., MCI Comments at 84-85; CompTel Comments at 24-27.

trunks from EO to tandem switches is determined by the peak volume of traffic, including access traffic, that is carried over these trunks. Similarly, tandem switch capacity is installed to meet the expected number of trunks terminating at the tandem.

TCI suggests that capacity-based rate elements will provide an administratively simpler and more efficient rate structure that will more accurately reflect the costs of providing tandem switch capacity and common transport than the current rate elements based on minutes of use. Many of the shared facilities -- the tandem switch and the trunks to the EOs -- are likely to experience their peak traffic during the same peak period of traffic flowing through the tandem and onto dedicated trunks.⁴⁹ Since the dedicated trunks from tandem to SWC for an IXC are sized to handle the peak capacity requirements of that IXC's tandem-switched traffic, the number of these dedicated trunks also provides a reasonable measure of the capacity demands imposed by the IXC's tandem-switched traffic on the shared facilities of tandem switches and on the trunks from the tandem to the EOs.

(c) Distance measurement

Bell Atlantic/NYNEX argued that the Commission should discontinue the IXC's option in selecting a usage-sensitive alternative for tandem-switched transport because it forces LECs to provision trunk facilities with capacity that is then underutilized.⁵⁰ Some parties expressed

⁴⁹BellSouth argued that ILECs should have the option to use peak/off-peak pricing for shared facilities. BellSouth Comments at 73. Although in some instances, peak-period pricing could more closely reflect the capacity costs of shared facilities than the current per-minute-of-use charges, a rate structure based on capacity will tie access charges most directly to the traffic causing those costs. Moreover, the charging for peak *versus* non-peak traffic is a process that is fraught with difficulty, as several parties also noted. See LCI Comments at 25-27; CompTel Comments at 27-28. TCI's proposal to recover shared facilities costs through per-trunk charges avoids these problems.

⁵⁰Joint Comments of Bell Atlantic and NYNEX at 40-41 ("Bell Atlantic/NYNEX Comments") at 40-41.

concern that the option involves charging a per-minute rate for dedicated trunks from the tandem switch to the SWC.⁵¹

TCI, on the other hand, supported retaining an option based on airline distance from end office to SWC, rather than route distance, but with a trunk-based capacity charge, rather than a per-minute charge, to recover the costs of shared facilities.⁵² TCI noted that allowing access customers the choice of rates based on either route distance or airline distance is pro-competitive by eliminating any incentive of the ILEC to choose a routing that increases IXC costs and that is discriminatory.⁵³

D. The TIC

TCI strongly supported the Commission's goal of eliminating the TIC because assessment of the TIC will frustrate the development of a competitive access market. Because the TIC is a per-minute charge on all switched access minutes, it is effectively a charge on local switching levied without regard to each IXC's usage of tandem-switch facilities.

The CompTel court⁵⁴ has also criticized the TIC as a charge unrelated to an individual carrier's usage of tandem-switch facilities, one which conveys the wrong incentives to existing and potential competing providers of local transport services⁵⁵ and encourages them to offer an inefficient mix of dedicated and tandem-switched service.⁵⁶ Further, because the TIC was

⁵¹See, e.g., Ameritech Comments at 19-20; Bell Atlantic/NYNEX Comments at 41; BellSouth Comments at 73.

⁵²TCI Comments at 16-17.

⁵³*Id.* at 17; MCI Comments at 86; ACTA Comments at 11; CompTel Comments at 26 (agreeing with TCI).

⁵⁴Competitive Telecommunications Ass'n v. FCC, 87 F.3d 522 (D.C. Cir. 1996) ("CompTel").

⁵⁵*Id.* at 529-30.

⁵⁶*Id.* at 531.

determined as a residual amount in order to effect a revenue-neutral transport rate restructure, costs recovered in the TIC are unknown. It is therefore reasonable to conclude that a significant portion of the TIC consists of embedded costs of various exchange access facilities in excess of the forward-looking costs of transport services.

In short, a usage-sensitive rate to recover embedded costs, *i.e.*, current revenue levels in excess of forward-looking, usage-sensitive costs, artificially suppresses demand for IXC service and distorts competition between ILECs and competing suppliers of transport services.

Thus, TCI supported the Commission's proposal to revise and, if necessary, phase out the TIC.⁵⁷ In doing so, the Commission should first determine the structure and level of rates for each of the components of the ILEC's access network -- local switch, direct-trunked transport, tandem-switched transport, and signaling -- based on forward-looking costs. Second, the Commission should determine the remaining amount of the TIC that will not be recovered by individual access rate elements. Then, to the extent that the Commission decides to allow the ILECs to maintain current levels of access revenues or to recover these legacy costs, it should allocate that amount to the PIC, and phase out the PIC over a transition period.

The majority of the commenters support the position that the TIC should be eliminated by reallocating identifiable portions of the TIC to the proper rate elements on a forward-looking cost basis.⁵⁸ Some commenters, however, seek to retain the TIC and the subsidies which it contains.⁵⁹ Retention of the TIC would violate the basic principles underlying just, reasonable, and nondiscriminatory rates, namely, that rates should reflect the components of access and the

⁵⁷NPRM, ¶ 117.

⁵⁸See, e.g., SNET Comments at 39; US West Comments at 61; USTA Comments at 58.

⁵⁹Comments of Frederick & Warinner at 9-10 ("Frederick & Warinner Comments"); Minnesota Independent Comments at 17.

manner by which the forward-looking costs of those components are incurred by the cost causer. Because the TIC is assessed regardless of the individual carrier's usage of transport services, it does not reflect the manner by which costs are incurred and does not constitute payment by the cost causer of access costs.

The ILECs and USTA have undertaken an analysis of the TIC and proposed that certain reallocations be made to other rate elements.⁶⁰ It is not necessary to re-analyze the historical costs that have been allocated to the TIC in order to arrive at an efficient rate structure to replace the TIC. By determining the forward-looking costs of all of the ILEC facilities used to provide access services and assigning those costs to rate elements that cause those costs, the Commission can establish an access rate structure that recovers all of the forward-looking costs of access. The historic costs now included in the TIC are relevant only if the Commission determines that these legacy costs, to the extent that they exceed forward-looking costs, should be recovered in access charges such as a PIC-based charge.

In sum, the TIC is an inefficient pricing and cost recovery mechanism that is anathema to the Commission's goal of establishing a more economically rational rate structure. It involves billions of dollars paid to the ILECs in connection with transport charges. These factors, the Telecommunications Act of 1996,⁶¹ and the D.C. Circuit remand, all require the Commission to move expeditiously to a cost-based alternative to the TIC. Elimination of the TIC would promote efficient consumption decisions by end users, resolve problems of uneconomic bypass, and provide IXCs with incentives to choose efficiently among alternative transport options for

⁶⁰See, e.g., USTA Comments at 58-66; U S West Comments at 61; Comments of The Southern New England Telephone Company at 39 (supporting USTA's proposed reallocations) ("SNET Comments"); PacTel Comments at 71; SWBT Comments at 10.

⁶¹Pub. L. No. 104-104, 110 Stat. 56, to be codified at 47 U.S.C. §§ 151, *et seq.* ("1996 Act").

their traffic. Commenters that support retention of the TIC not only conflict with federal and court mandates, but advocate a position that is in direct conflict with the Commission's goal to drive access charges to cost-based rates on a forward-looking basis.

E. SS7 Signaling

With regard to SS7 signaling, TCI encourages the Commission to adopt the unbundled SS7 rate structure introduced by Ameritech, and approved by the Commission on March 27, 1996.⁶² The Ameritech proposal contains four separate rate components that are consistent with the way costs are incurred for each distinct SS7 function.⁶³ The four component charges are the: (1) signal link; (2) STP port terminations; (3) signal transport; and (4) signal switching.⁶⁴ The signal link costs arise from the use of a dedicated network access line; therefore, those costs should be recovered by a flat-rate charge that varies directly with the airline mileage between the SS7 customer and SS7 network. STP port termination facilities are dedicated to a particular customer and should also be recovered and charged on a flat-rated basis. Forward-looking signal transport costs should be recovered on the basis of signaling messages. Signal switching should be recovered on a per-message basis, since packet switching costs arise from processing and switching signaling messages, rather than calls.⁶⁵ TCI recommends that the same per-message rate apply to both ISUP and TCAP messages, at least until ILECs have demonstrated a forward-looking cost difference between the two types of messages. TCI also commented that the Commission should retain the definition of signal transport adopted in its Order of March 17,

⁶²TCI Comments at 21.

⁶³*Id.*

⁶⁴*Id.*

⁶⁵*Id.* at 22-23.

1996, which is limited to the transport of signaling messages between a local STP and an end office SSP and excludes other links in the SS7 network.

Nearly all of the commenters addressing the SS7 rate structure proposed by the Commission also find Ameritech's SS7 rate structure acceptable.⁶⁶ Nevertheless, some ILECs voiced concern that the proposed rate structure would not permit enough flexibility to allow carriers to recover their SS7 costs in the most cost efficient manner.⁶⁷ For example, one ILEC argued that the proposed rate structure does not provide the flexibility to address future services, such as AIN.⁶⁸

Rate structure flexibility would be warranted only if there was evidence to suggest that some carriers currently incur SS7 costs in a different manner than others. Stated differently, before greater rate structure flexibility is introduced into the rate structure, ILECs should be required to demonstrate that rate structure flexibility is necessary to reflect cost causation and that its resulting rate levels are based on forward-looking economic costs. The ILECs, however, have not made such a showing. Furthermore, premature rate structure flexibility for ILECs would enable these carriers to take advantage of their current market share prior to the establishment of meaningful access competition.

⁶⁶See, e.g., AT&T Comments at 60-61; Ameritech Comments at 66; Illuminet Comments at 2; MCI Comments at 87; SNET Comments at 40; Time Warner Comments at 16. Cf. CompTel Comments at 31-32 (suggesting that the Commission defer adoption of the Ameritech SS7 proposal because the carrier access billing system would place a significant financial and operational burden on smaller carriers).

⁶⁷See, e.g., Ameritech Comments at 66; Bell Atlantic/NYNEX Comments at 40; BellSouth Comments at 81-82; PacTel Comments at 73; U S West Comments at 73.

⁶⁸See BellSouth Comments at 81.